

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION

RAYMOND ANDREW CLARK,

Plaintiff,

VS.

No. 04-1174-T/An

CHARLES TRAUGHBER, ET AL.,

Defendants.

ORDER DENYING MOTION TO RECONSIDER

On April 25, 2006, the Court entered an order denying plaintiff's motion for entry of default and motion for default judgment. In that order, the Court also directed the Clerk to docket certain of plaintiff's documents as the amended complaint and ordered the defendants to respond within twenty days of that filing. On May 2, 2006, plaintiff filed a motion to reconsider the denial of his motions for default.

Plaintiff asserts that the Court had already directed the defendants to respond to the amended complaint, referring to a footnote contained in docket entry no. 57. However, that docket entry, entered March 20, 2006, is merely an “Order Denying Motions to Supplement Record.” The footnote to which plaintiff refers stated that plaintiff’s motion to amend had been granted in a separate order, but since the defendants had not yet had an opportunity to

respond, the Court would not consider the claims in the amended complaint in connection with plaintiff's pending motion for summary judgment. Nowhere in the order does the Court either direct the Clerk to file the amended complaint or instruct the defendants to respond.

Citing to Federal Rule of Civil Procedure 15(a), plaintiff also takes issue with the Court allowing the defendants twenty days to respond to the amended complaint instead of ten days. However, Rule 15(a) actually provides, in pertinent part: "A party shall plead in response to an amended pleading . . . within 10 days after service of the amended pleading . . . unless the court otherwise orders." In this case, the Court has otherwise ordered that the defendants shall have twenty days to respond to the amended complaint.

Plaintiff's Motion to Reconsider Default Judgment (dkt. #76) is DENIED.

IT IS SO ORDERED.

s/ **James D. Todd**
JAMES D. TODD
UNITED STATES DISTRICT JUDGE